IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Crl.Rev.Pet.No. 2139 of 2003(C)

CMP.1686/2003 of CHIEF JUDICIAL MAGISTRATE COURT, MANJERI

.....

REVN. PETITIONER: PETITIONER:

M. UMMER, S/O. KASSIM HAJI,
MALILYAKKAL HOUSE, IRIVETTI AMSOM,
THATTILANGADI POST, ERNAD TALUK.

BY ADV. SRI.K.M.SATHYANATHA MENON
SMT.PREETHI. P.V.

RESPONDENTS: RESPONDENTS:

---

1. C. SOMANATHAN, S/O. ACHUTHAN NAIR,
CHELAKATTIL HOUSE, PAPPINIPPARA POST,
MANJERI, MALAPPURAM DISTRICT.

2. RITHIKA FINANCE, REPRESENTED BY ITS
AGENT, M.NIZAR ALI.

3. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.K.SHIBILI NAHA
PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 14/11/2007, ALONG WITH CRRP NO. 2932 OF 2003 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Crl. R.P.Nos.2139/2003-C & 2932/2003-C

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Dated this the 14th day of November, 2007

O R D E R

Crl.R.P.No.2139/2003 is filed over the common order of the court below in C.M.P.No. 1686/2003 filed by the petitioner under Section 451 Cr.P.C. Crl.R.P.No.2932/2003 is filed over the order of the court below in C.M.P.No.1728/2003 (the application filed by the third respondent also under Section 451 Cr.P.C.). The court below directed the release of the vehicle, i.e., stage carriage bus bearing Reg.No.KRM 6696 to the petitioner in C.M.P.No.1728/2003, who is the proprietor of the hire purchase out fit, who allegedly financed the alleged purchase of the vehicle by its previous owner. The court below found that the instalments for the period from 06/11/2000 to 06/09/2001 stand not remitted. The court below has observed that "if the financier had exercised his right who repossessed the vehicle as per the terms and conditions in the agreement, the interim custody of the vehicle should be given to the hire purchasing company or financier". It is submitted that the financier had not repossessed the vehicle. The petitioner has also produced the receipts for the deposit of the instalments during the relevant period, it appears. The interim custody of the vehicle has been given to the financier.

2. In view of the contentions of the petitioner herein (there was no representation for the contesting respondents), the order of the court below is set aside. The court below is directed to reconsider the matter and dispose of the petitions by a reasoned order. The matter shall stand posted before the court below on 18/12/2007. The respective sides will be entitled to adduce evidence in the matter. The criminal revision petitions are allowed.

K.R.UDAYABHANU,
Judge

ms